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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (s) No. 1418 of 2007

Petitioner : Shiv Bhuwan Singh, aged about 51 years, Son of Shri Ram Bali Singh, Laboratory Technician, Govt. P.G. College, Dharampura, Jagdalpur (C.G.).

Versus

Respondents :1. State of Chhattisgarh, through Secretary, Higher Education Department, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh.

2. The Commissioner, Higher Education Department, Govt. of Chhattisgarh, Science College Compound, Raipur (Chhattisgarh)

3. The Collector, District Bastar, Jagdalpur (Chhattisgarh)

4. Principal, Government P.G. College, Dharampura, Jagdalpur Bastar (C.G.).

SB : Hon'ble Shri Satish K. Agnihotri, J.

Present: Mr. Anupam Dubey, counsel for the petitioner.
Mr. Sushil Dubey, Govt. Advocate for the respondents/State.

O R D E R

(Passed on this 12th day of March, 2007)

1. By this petition, filed under Article 226 of the Constitution of India, the petitioner seeks for quashing of the memorandum dated memorandum dated 25.11.2006 (P/9) and further seeks a direction to the respondent-Collector to reinstate the petitioner on the post of Laboratory Technician and grant consequential benefits after revoking the order dated 14.3.2002 (P/1), whereunder the petitioner was placed under suspension by the Collector, Jagdalpur Bastar.

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2. The indisputable facts, in nutshell, are that the petitioner was employed as Laboratory Technician and was posted at Government P.G. College, Dharampura, Jagdalpur Bastar. The petitioner was served with the suspension order dated 14.3.2002 (P/1) in view of registration of Case No. 268/97 and 238/99. The petitioner was convicted vide order dated 14.3.2005 (P/2) for commission of an offence punishable under Section 465 of the Indian Penal Code and sentenced to simple imprisonment for two years and fine of Rs. 1000/-, in default of payment of fine to further undergo simple imprisonment for three months. The petitioner was also convicted for commission of an offence punishable under Section 469 of the Indian Penal Code and sentenced to rigorous imprisonment for three years and fine of Rs. 3000/-, in default of payment of fine to further undergo rigorous imprisonment for three months. Both sentenced for commission of the offences are run concurrently.

3. The petitioner preferred an appeal, being Criminal Appeal No. 27/2005, before the 1st Additional Sessions Judge, Jagdalpur, Bastar against the judgment dated 14.3.2005, passed by the Judicial Magistrate, Ist Class, Jagdalpur. The Additional Sessions Judge, vide his order dated 14.8.2006 (P/3) acquitted the petitioner from both the charges, as above stated.

4. Thereafter, the petitioner made several representations (P/4, P/6, P/7), respectively to the Collector, Jagdalpur for quashing the suspension order and permitting him to join the service with all the benefits.

5. The Collector vide order dated 25.11.2006 (P/9) declined to revoke the suspension and reinstate the petitioner in the service on the ground that the Government has decided to file an appeal against the

order dated 14.8.2006, passed by the I[st] Additional Sessions Judge, Jagdalpur Bastar.

6. The question, in this petition, arises for consideration is asto whether the suspension can continue when the petitioner has been acquitted in the trial of the criminal offences and the appeal against the acquittal is pending consideration.

7. This issue was considered and decided by this Court in the case of **Dhaneshwar Soni vs. State of Chhattisgarh and another**[1], wherein this Court held as under :-

> "Since the petitioner has been acquitted in criminal trial by the trial Court, the petitioner cannot be continued under suspension. Even if the petitioner is ultimately found guilty in the appeal, consequential order can be passed. The suspension is not a punishment. The purpose of suspension is to keep the delinquent away from the work in order to ensure smooth disposal of investigation, inquiry or trial. In the case of appeal, there is no question of any fresh evidence or deposition, which can be influenced by the petitioner or further records can be tampered with. The very purpose of keeping an employee under suspension is not required in an appellate proceeding.

8. In the present case, the petitioner has been acquitted of the offences for which he was placed under suspension by the order dated 14.8.2006, passed by the Judicial Magistrate, I[st] Class, Jagdalpur. Pending of the second appeal cannot be ground for continuation of suspension.

9. The Supreme Court, in ***P.L.Shah* vs. *Union of India and another***[2], held as under :-

> "6. An order of suspension is not an order imposing punishment on a person found to be guilty. It is an order made against him before he is found guilty to

ensure smooth disposal of the proceedings initiated against him. "

10. Accordingly, the suspension order dated 14.3.2002 (P/13) and the memorandum dated 25.11.2006 (P/9) are quashed. The petition is allowed. The petitioner is further entitled to reinstatement with consequential benefits flowing from this order. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

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1. 2007 (1) M.P.H.T. 54 (CG)
2 (1989) 1 SCC 546

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